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### MINISTRY OF LABOUR AND EMPLOYMENT

#### NOTIFICATIONS

*New Delhi, the 1st March 1958*

**S.O. 185.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following awards of the Central Government Industrial Tribunal, Calcutta in the matter of applications under section 33A of the said Act.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION NO. 36 OF 1957: (u/s. 33-A)

- (1) Ramnarayan Singh, Jigger Driver, Diesel Engine Foreman's Section, C.M.E. Dept., K.P.D.,
- (2) Kalapnath, Jigger Driver,
- (3) Brizmohan, Jigger Driver,
- (4) Balznoo, Jigger Driver, and
- (5) Saraswati Ray, Jigger Driver,

C/o C.P.C. Workers Union, 3, Joykrishna Paul Road, Calcutta-23—*Complainants.*

**| Vs.**

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1.—*Opposite Party.*

In the Matter of a complaint under section 33-A of the Industrial disputes Act, 1947 arising out of Reference No. 1 of 1956.

*Dated the 21st January, 1958*

**PRESENT:**

Shri A. Das Gupta, Sole Member.

#### APPEARANCES:

Shri Rajani Mukherjee of C.P.C. Workers Union—for the complainants.

Shri K. B. Bose, Counsel, with Shri N. M. Das Gupta, Advocate—for the Port Commissioners.

## AWARD

Shri Rajani Mukherjee appearing on behalf of the applicants under section 33-A of the Industrial Disputes Act, informs the Tribunal that as the grievance of the applicants has since been remedied, the applicants do not press their complaint. Hence, my award is that there is no dispute between the applicants and the Port Commissioners, Calcutta.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,

Calcutta.

CALCUTTA;

The 21st January, 1958.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19

APPLICATION No. 42 OF 1957: (U/s. 33-A)

Muneswar Pandit, Electric Welder, Jetty Workshop Chief Engineer's Department, C.P.C., C/o C.P.C. Workers Union, 3, Joykrishna Paul Road, Calcutta-23—*Complainant*.

*Vs.*

Calcutta Port Commissioners, 15, Strand Road, Calcutta-1—*Opposite Party*.

In the Matter of a complaint under section 33-A of the Industrial disputes Act, 1947 arising out of Reference No. 1 of 1956.

Dated the 22nd January, 1958

PRESENT:

Shri A. Das Gupta, Sole Member.

## APPEARANCES:

Shri A. L. Roy of C.P.C. Workers Union—for the complainant.

Shri N. M. Das Gupta, Advocate—for the Calcutta Port Commissioners.

## AWARD

Shri A. L. Roy of the Calcutta Port Commissioners' Workers Union on behalf of the applicant informs the Tribunal that the applicant will not proceed with the present petition under section 33-A of the Industrial Disputes Act.

## ORDER

The petition of complaint is dismissed for non-prosecution and my award is that there is no dispute subsisting between the parties as alleged in the petition of complaint.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,

Calcutta.

CALCUTTA;

The 22nd January, 1958.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

APPLICATION No. 44 OF 1957: (U/S. 33-A)

Jiban Karmakar, Blacksmith, C/o C.P.C. Workers Union, 3, Joykrishna  
Paul Road, Calcutta-23—*Complainant.*

*Vs.*Calcutta Port Commissioners, 15, Strand Road, Calcutta-1, *Opposite Party.*

In the matter of an application under section 33-A of the Industrial Disputes Act, filed in connection with Reference No. 1 of 1956.

## PRESENT:

Shri A. Das Gupta, Sole Member.

*Dated the 25th January, 1958*

## APPEARANCES:

Shri A. L. Roy of C.P.C. Workers Union—*for the complainant.*Shri A. N. Ganguly—*for the Calcutta Port Commissioners.*

## AWARD

The present application under section 33-A of the Industrial Disputes Act, 1947 was filed by Shri Jiban Karmakar, Blacksmith, on the 29th August, 1947 complaining that he had been superseded by a junior worker who has been promoted to the post of Leading Hand. This supersession is alleged to have taken place during the pendency of the main adjudication proceedings. He pleads that by such supersession his service condition has been altered to his prejudice without express permission of the Tribunal as required by section 33 of the Industrial Disputes Act.

2. The Port Commissioners denied to have violated the provisions of section 33 of the Industrial Disputes Act or to have superseded the applicant. At the hearing it transpired that one Bechu Gopal was appointed Leading Hand on the 22nd March, 1957. Bechu Gopal was appointed as Blacksmith on the 22nd February, 1949 in the grade Rs. 34-1-44. He was promoted to Grade I on the 1st March, 1954 on the scale Rs. 60-75. The applicant Jiban Karmakar was appointed as a Hammerman on the 1st October, 1942. He was promoted to the post of Blacksmith on the 21st March, 1949 on a monthly salary of Rs. 30. On the 1st January, 1952 he was promoted to Grade II on the scale Rs. 40-2-60. Thus Bechu Gopal was all along working in the higher grade although the total length of service put in by him might be less than that put in by the present applicant. Length of service is not the criterion to determine seniority of a workman. A worker in a higher grade must be presumed to be senior to another in the lower grade although the length of service put in by the latter may be much more than that put in by the former. Thus, there was no supersession and there was no alteration of the service conditions. The complaint is accordingly rejected. This is my award.

(Sd.) A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,

Calcutta.

CALCUTTA;

*The 25th January, 1958.*

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA,

20/1, Gurusaday Road, Ballygunge, Calcutta-19

APPLICATION No. 43 OF 1957: (U/s. 33-A)

Banshidhar Samal, Watchman, New Belt No. 302, C/o Calcutta Port Commissioners Workers' Union, 3, Joykrishna Paul Road, Calcutta-23—*Complainants.*

*Vs.*Calcutta Port Commissioners, 15, Strand Road, Calcutta-1, *Opposite Party.*

In the matter of an application under section 33-A of the Industrial Disputes Act, filed in connection with Reference No. 1 of 1956.

PRESENT:

Shri A. Das Gupta, Sole Member.

*Dated the 25th January, 1958*

## APPEARANCES:

Shri A. L. Roy of C.P.C. Workers Union—for the complainant.

Shri A. N. Ganguly—for the Calcutta Port Commissioners.

## AWARD

The present application under section 33-A of the Industrial Disputes Act, 1947 was filed by Shri Banshidhar Samal, Watchman, New Belt No. 302 on 29th August, 1957 complaining that the service condition under which promotion was given to watchmen to the rank of Jamadar according to seniority has been altered to the prejudice of the complainant, during the pendency of the adjudication proceedings and a junior man has been promoted to the rank of Jamadar without the express permission of the Tribunal as required by section 33 of the Industrial Disputes Act in violation of the service conditions existing immediately before commencement of the adjudication proceedings.

2. In reply the Port Commissioners denied to have contravened the provisions of section 33 of the Industrial Disputes Act and to have altered the service conditions relating to promotion which were as settled by negotiations with the National Union to be according to seniority *cum* suitability.

3. My attention has been drawn to the first sentence of Annexure A to the Port Commissioners written statement "at present promotions are made on the basis of seniority". Annexure A is a Note submitted by the Police Liaison Officer on 6th February, 1957 before the Secretary of the Port Commissioners suggesting some alteration in the rules of promotion on the ground that the existing rules were against efficiency of the department. Watchman is a Class IV officer. In the main reference there was a specific issue about promotion of Class IV officers under the Port Commissioners. Promotion according to seniority without any regard to suitability of the man is undoubtedly against the interest of the industry and cannot be upheld. There might have been such a rule in the past but a rule which is against the interests of efficient working of an industry cannot be perpetuated simply because an alteration of the rule might affect some workmen who are presumably inefficient. If a workman is efficient he can have no misgiving that he would be superseded. All industrial disputes must be looked into objectively in the interest either of the workmen or of the employers. The interest of the industry demands that promotion should go to the seniormost man provided he is found suitable and that he should be passed over if he is not found suitable. Test of efficiency or suitability of an employee for a higher post is undoubtedly for the employers to decide. An outsider cannot be expected to decide the question correctly having regard to the requirements of the industry. In this view, so far as suitability of a workman for promotion is concerned it has been universally laid down that the employers have the exclusive right to decide the question. I accordingly reject the complaint. This is my award.

A. DAS GUPTA,

Sole Member,

Central Government Industrial Tribunal,

Calcutta.

CALCUTTA;

*The 25th January, 1958.*

[No. L.R. II/31(2)/58.]

**S.O. 186.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Labour Court, Nagpur, in the industrial dispute between the employers in relation to the Pure Chirimiri Colliery and their workmen.

IN THE HONOURABLE LABOUR COURT, NAGPUR AT BOMBAY

(Sitting at Calcutta)

REFERENCE (L.C.) No. 2 OF 1957

ADJUDICATION

BETWEEN

Pure Chirimiri Colliery, P.O. Chirimiri

AND

Their workmen.

In the matter of an Industrial Dispute relating to the dismissal of certain workmen.

APPEARANCES:

Shri S. K. Bose, President and Shri K. P. Mookherjee, Secretary, Bharat Manufacturers, Traders & Dealers Association, with Shri S. R. Sabhlok, Manager, Pure Chirimiri Colliery—for *Pure Chirimiri Colliery*.

Shri D. L. Sen Gupta, Advocate, with Shri R. K. Dubey, General Secretary, Chhattisgarh Colliery Workers Federation—for *the Workmen*.

AWARD

The Central Government in exercise of the powers conferred by clause (C) of sub-clause (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has made this Reference to me under Government Order LR-II-53-1(13)/57, dated the 15th May, 1957 for adjudication of an Industrial Dispute between the Pure Chirimiri Colliery and their Workmen, in respect of the matter specified in the Schedule annexed to the said order.

THE SCHEDULE

Termination of the services of the undermentioned workmen and the relief to be granted to those wrongfully dismissed:—

1. Shrimati Amritia
2. Shrimati Bachia.
3. Shrimati Gujratia.
4. Shrimati Anaria.
5. Shrimati Andhranjia.
6. Shrimati Santi.
7. Shrimati Subasin.
8. Shrimati Jambati.
9. Shrimati Rajkumari.
10. Shrimati Etwaria.
11. Shrimati Jaiman.
12. Shrimati Banspatia.
13. Shri Jamraj.
14. Shri Kailas.
15. Shri Harbansh.
16. Shri Yograj.
17. Shri Bhaiyalal.
18. Shri Shew Prasad.
19. Shri Kamla Prasad.
20. Shri Jatan.

2. On the usual notices being issued, the General Secretary, Chhattisgarh Colliery Workers Federation, Chirimiri, M.P. filed the statement of claim on behalf of the workmen and the Chief Executive Officer under his signature for Central India Coalfields Ltd. filed written statement on behalf of the management of the Pure Chirimiri Colliery. The Company denied to have dismissed the concerned workmen and alleged that four out of them left their respective jobs of their own accord and the remaining sixteen workers were unfit to work in the jobs in which they were engaged in view of the provisions of the Mines Act and the rules made thereunder. At the time of the hearing the parties on realising the correct position arrived at an amicable settlement in respect of all these twenty workmen. I, therefore, make my Award in terms of the memorandum of settlement annexed hereto.

(Sd.) P. D. VYAS,  
Judge, Labour Court.

The 5th February, 1958.

#### ANNEXURE

BEFORE SHRI P. D. VYAS, LABOUR COURT, NAGPUR

In the matter of Reference (L.C.) No. 2 of 1957

AND

In the matter of Industrial Dispute between The Management of the Pure  
Chirimiri Colliery

AND

Its workmen.

#### TERMS OF SETTLEMENT

With regard to the following 16 workers they shall appear before the Certifying Surgeon within four weeks from this date and if the Certifying Surgeon on examination finds them or any one of them to be adult or adults and fit for employment under the provisions of the Mines Act together with the Rules framed thereunder and so certifies, they will be employed by the Company in case they report for work within seven days from the date of the certificate of the Certifying Surgeon.—

1. Shrimati Gujratia Baiga, d/o Chhotu.
2. Shrimati Amritia Ghasia, d/o Mirroo.
3. Shrimati Bachia Sahis, d/o Ram Ratan.
4. Shrimati Anaria Sahis, d/o Anant.
5. Shrimati Adhrajia Biyar, w/o Genda Singh.
6. Shrimati Shanti Dhjmar, w/o Sita Ram.
7. Shrimati Subasia Gond, w/o Bishwanath.
8. Shrimati Jambati Sahis, w/o Tribeni.
9. Shri Kailas Panka, s/o Lalai.
10. Shri Jamraj Panka, s/o Khaitu.
11. Shri Harbansh Singh, s/o Jetha Singh.
12. Shrimati Jaiman, d/o Lalman.
13. Shri Jograj.
14. Shri Bhaiyalal.
15. Shri Shew Prasad.
16. Shri Kamla Prasad.

2. With regard to the following four persons they will be taken back by the Management if they offer for employment within twenty-one days from today. These following workers will get a lumpsum of Rs. 75 each as *ex-gratia* payment. In case the following four workers fail to join their respective duties within

twenty-one days they will not be taken for service by the Company and will not be entitled to any *ex-gratia* payment:—

- (1) Rajkumari,
- (2) Itwaria,
- (3) Banaspatia and
- (4) Jatan.

The continuity of service will be treated from their last respective dates of appointment for the purpose of seniority.

K. P. MOOKHERJEE, Secretary,  
Bharat Manufacturers Traders & Dealers Assn.

*The 28th January, 1958.*

(Sd.) R. K. DUBEY, Secretary,  
Chhattisgarh Colliery Workers Federation.

*The 28th January, 1958.*

Recorded.

(Sd.) P. D. VYAS.

*The 28th January, 1958.*

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[No. LR II/55-1(13)/57.]

A. L. HANDA, Under Secy.

